

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

IN RE PORK ANTITRUST LITIGATION

Case No. 0:18-cv-01776-JRT-HB

This Document Relates To:

ALL COMMERCIAL AND
INSTITUTIONAL INDIRECT
PURCHASER PLAINTIFF ACTIONS

**DECLARATION OF JOHN W. BARRETT IN SUPPORT OF COMMERCIAL AND
INSTITUTIONAL INDIRECT PURCHASER PLAINTIFFS' MOTION TO APPOINT
TOSTRUD LAW GROUP, P.C.; ZIMMERMAN REED LLP; BARRETT LAW GROUP,
P.A.; AND BOZEMAN LAW FIRM, P.A. TO PLAINTIFFS' STEERING COMMITTEE**

I, John W. ("Don") Barrett, declare:

1. My statements contained herein are based on my personal knowledge.
2. I am an attorney licensed to practice law in the State of Mississippi, and I am the senior partner of Barrett Law Group, P.A ("BLG"), a law firm headquartered in Lexington, Mississippi.
3. BLG has spent time investigating the nature of the conspiracy at issue and its effect on Commercial and Institutional Indirect Purchaser Plaintiffs ("Commercial Indirects"). BLG has taken other steps to advance its clients' interests in this case, including coordinating closely with co-lead counsel Jon Cuneo and Shawn Raiter, who support the instant motion to appoint Tostrud Law Group, P.C., Zimmerman Reed LLP, and the Barrett Law Group, P.A. to a Plaintiffs' Steering Committee.
4. I was co-lead counsel for a national class of direct purchasers of dairy products in *First Impressions Salon, Inc. et al v National Milk Producers Federation, et al*, in the Southern

District of Illinois. We settled this \$200 million case last fall on the eve of trial. The Court gave final approval to this settlement on April 27, 2020.

5. In September 2018, I was appointed as class counsel for a class of Mississippi insureds for recovery of improperly withheld labor depreciation. This case has settled and the final fairness hearing is set for January 29, 2020.

6. On November 30, 2017, my firm led the filing of the first RICO class action on behalf of U.S. hospitals against the manufacturers and distributors of opioids. On January 4, 2018, I was appointed by Judge Dan Polster to the Plaintiffs Executive Committee as the representative of hospitals. As of today, our firm represents 780 hospitals in 43 states in this important litigation. In this litigation, we have settled two claims in bankruptcy for \$256 million dollars.

7. I am co-lead class counsel for the Automobile Dealer Actions in *In Re: Automotive Parts Antitrust Litigation* No. 2311, pending before Judge Marianna Battani in the Eastern District of Michigan. In this capacity we represent some 8,000 automobile dealers in 31 states, victimized by one of the largest price-fixing conspiracies in history. In this litigation we have forged a unique pact with the end-payer plaintiffs, and together as of September 4, 2018, have reached settlements with 71 different defendants for a total of approximately \$1.6 billion. The litigation continues with one remaining defendant.

8. I am lead counsel in a group of thirty-five attorneys from around the country prosecuting cases, mostly in California, against major food producers who routinely misbrand their food products to hide unhealthy ingredients. As a result of this litigation, I have been featured in stories on the front page of the *New York Times* and other papers around the nation, I was the subject of a major article in the London *Sunday Times*, I was interviewed at length on BBC's *Newshour*, by the Swedish newspaper *Aftonbladet*, and by a Paris television station, and I have

given numerous interviews on public radio and on radio stations around the country, as well as in Canada and even in New Zealand. All this publicity says little or nothing about my own character or ability, but does suggest that our firm is prosecuting litigation which has struck a nerve with the American people and others who share our values. We have effected corrective label changes in all but the one remaining case, which is against the Coca-Cola Company. We have been successful in having our class certified against Coca-Cola, and that certification ruling is now on appeal to the 9th Circuit.

9. On May 28, 2015, I was appointed co-lead counsel for plaintiffs in *In Re: Coca-Cola Products Marketing and Sales Practices Litigation*, MDL No.14-02555, by Judge Jeffrey White of the Northern District of California. Class certification has been granted and the case is proceeding towards trial.

10. I was co-lead counsel for plaintiff trucking firms from around the nation in a class action against the Pilot/Flying J truck stop group over alleged rebate under-payments to the truckers concerning the purchase of diesel fuel, I negotiated a settlement of 106% of all under-payments, plus all costs and fees of the litigation. Payments approached \$85 million; the final approval was given November 25, 2013, by the U.S. District Court in Little Rock, Arkansas.

11. I was co-lead class counsel in *Vereen v. Lowe's Home Centers, Inc.*, a national class action over the sale of defective drywall, pending in the Superior Court of Muscogee County, Georgia. On January 12, 2012, a settlement was finally approved by that court, affording financial relief to over 40,000 claimants. In approving the requested fee award, the *Vereen* Court spoke of our "excellent reputations in the legal community."

12. I was co-lead counsel in a class action lawsuit (*Holman v. Noble Energy, Inc.*, District Court County of Weld, Colorado) brought on behalf of royalty owners in the Greater

Wattenberg natural gas field in Colorado. This suit, which complained of systematic underpayments of royalties by a major natural gas producer, resulted in a \$98 million settlement for the class. This settlement received final approval by the Colorado court on June 11, 2007. Since that time, we have achieved class settlement in four similar cases, most recently in the federal district court in Denver on October 29, 2010. These five cases have produced settlements exceeding \$150 million; I was also co-lead counsel in several similar cases currently pending in the Western District of Virginia. In the first of these cases, a settlement of \$3.4 million, which recovered over 95% of all compensatory damages claimed by the plaintiff class, received final approval by the District Court on October 4, 2011. In approving the fee application for that case, Judge James P. Jones complimented our work, adding, "I'm sure the class realizes that, were it not for the experienced and well-resourced counsel in this case, there would be no recovery." In the cases against CNX and EQT, Judge Jones certified classes by orders entered on March 29, 2017, and those cases have now been settled.

13. On November 22, 2000, I was appointed as the Lead Class Counsel by Chief Judge Sarah Evans Barker in the Bridgestone/Firestone/Ford tire and Explorer litigation, centralized in the U.S. District Court for the Southern District of Indiana (MDL No. 1373). A Nationwide settlement of the consumer class case against Bridgestone/Firestone was achieved in 2004 and approved by the Court in a Texas state case. On December 3, 2007, Judge David DeAlba of the Superior Court of Sacramento County, California preliminarily approved a multi-state class action settlement with Ford Motor Company. Final approval was granted in April, 2008.

14. On January 26, 2009, in *Stanich, et al v. Travelers Indemnity Company, et al*, U.S.D.C., N.D. Ohio, No. 1:06 CV 962-KMO, I with others was appointed as class counsel in a certified class action concerning fraudulent insurance pricing. On March 31, 2010, the Court

approved a settlement reached in that case which the Court values at \$17,398,633, finding that class counsel were “experienced, professional, and highly skilled.”

15. In the Summer of 2001, I was named by Judge Kathleen O’Malley, U.S.D.C., Northern District of Ohio, to the Plaintiffs’ Steering Committee in *In Re: Inter-Op Hip Prosthesis Liability Litigation*, MDL No. 1401, and I was a principal negotiator for the plaintiff class for a \$1.045 billion settlement reached with defendants, which settlement was finally approved by Judge O’Malley on May 22, 2002. Personal injury classes, especially successful ones, are very rare, and were so even back in 2002.

16. I was lead class counsel and lead trial attorney for the plaintiffs in a national class action against State Farm Mutual Insurance Company in Illinois, concerning State Farm’s use of imitation crash parts in auto repair. After a seven-week trial ending in October of 1999, the jury awarded a verdict of \$456 million and an additional \$600 million in punitive damages was awarded by the trial judge. This was the largest verdict ever rendered in the State of Illinois and the largest against any insurance company in the United States. As a result of that litigation, I was named the first-ever “Litigator of the Month” by the National Law Journal in its issue of November 22, 1999. This verdict was subsequently affirmed by a unanimous Illinois Court of Appeals, and reversed by the Illinois Supreme Court. From the ashes of that case arose *Hale et al v. State Farm Mutual Insurance Company*, filed in the Southern District of Illinois, which alleged that State Farm engineered the election of an Illinois Supreme Court justice, then lied about its election activities, to avoid a recusal of that justice from the panel deciding the *Avery v. State Farm* appeal. State Farm’s motion to dismiss was denied and class certification was granted, and State Farm had three petitions denied in the Seventh Circuit. Sometimes justice takes a while to play out: On September 13, 2018, after the trial jury was empaneled, and over 21 years after the original litigation began,

Judge Herndon granted final approval to a settlement with State Farm for \$250 million. From the bench, Judge Herndon stated, “Important principles have been vindicated by this settlement,” and also stated, “Class Counsel were diligent...and they performed at the highest level of professional standards.”

17. On December 16, 2004, I was appointed on of six members of the Class Plaintiffs’ Steering Committee in the *In Re Neurontin Marketing and Sales Practices Litigation* (MDL No. 1629), by U.S. District Judge Patti B. Saris of the District of Massachusetts. In that MDL, the case of an individual plaintiff (Kaiser Foundation Health Plan) against the defendant Pfizer, Inc., was tried over a five-week period in February and March, 2010 in Boston, and I was a member of the trial team for Kaiser. That trial resulted in a jury verdict for plaintiff on its civil RICO claim in the amount of \$47.34 million, which was trebled under the RICO statute. This is believed to be the first civil RICO verdict ever rendered against a major pharmaceutical company. This verdict was affirmed by the 1st Circuit Court of Appeals, and has been paid in full.

18. On November 22, 2004, I was appointed Plaintiffs’ Co-Lead Counsel in *In Re High Sulfur Content Gasoline Products Liability Litigation* (MDL No. 1632), by U.S. District Judge Ivan L.R. Lemelle of the Eastern District of Louisiana. A \$100 million plus settlement was finally approved by the Court in September of 2006.

19. On September 17, 2003, I was appointed plaintiffs’ co-lead counsel in *In Re Welding Fume Litigation* (MDL 1535) by the U.S. District Court in Cleveland, Ohio. This litigation only recently settled with the remaining cases settling for \$26.5 million. At a contested class certification hearing in that Court on April 24, 2007, nationally-prominent defense attorney John Beisner represented to the Court that I am one of “the most outstanding lawyers in the country.” I do not believe that Mr. Beisner really meant it, but he did say it.

20. I was lead counsel in the “alternative commission” class action litigation against Progressive Insurance Company, in which a nationwide settlement valued by the court at \$493 million was reached in the Circuit Court of Johnson County, Illinois, with final approval being given by the court on November 14, 2002.

21. I was lead counsel of the Katrina Litigation Group, a consortium of lawyers who represented hundreds of homeowners along the Mississippi Coast who were victimized first by Hurricane Katrina in August, 2005, and then by their insurance companies. Our group favorably settled over 1,600 homeowners’ claims (including those of former U.S. Senator Trent Lott, former U.S. Representative Gene Taylor, and U.S. District Court Judge Louis Guirola) for more than \$215 million. We are the only attorneys to have tried Hurricane Katrina cases to successful verdict in both state and federal court (*Lisanby v. USAA*, in June of 2008, resulting in a verdict and payment to Admiral and Mrs. Lisanby of \$849,841; and *Penthouse v. Certain Underwriters at Lloyds*, resulting in a verdict on February 24, 2011, amounting to \$1,832,804. On December 21, 2011, the *Penthouse* Court entered final judgment in the case, adding attorneys’ fees, costs, and interest in the amount of \$3,111,533, bringing the total award to \$4,944,135. This time, *they* should have settled.

I affirm under penalty of perjury on this 14th day of January 2021 that the foregoing is true to the best of my knowledge.

By: /s/ John W. Barrett
John W. (“Don”) Barrett